vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7290 OF 2003

Awade Pulp and Paper Mills Pvt. Ltd. ... Petitioner

V/s.

Regional Provident Fund Commissioner ... Respondent

Mr.M.S. Topkar for Petitioner
Mr.Suresh Kumar for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **MARCH 26, 2007**

P.C.:

. Rule. By consent of the parties, Rule made returnable forthwith and heard finally.

2. This Writ Petition challenges the order dated 17.7.2003 at Exhibit F to the petition. By this order, the Petitioner has been directed to pay a certain amount as arrears of provident fund dues. Admittedly, the Petitioner was established on 1.4.1997 and started contributing towards Employees' Provident Fund scheme from 8.1.1999. The Petitioner claimed that it was entitled to the infancy protection available under section 16(1)(d) of the Employees Provident Fund and Miscellaneous Provisions Act, as it then stood, for a period of three years. However, the Department sought to recover the dues immediately the Act was amended and

section 16(1)(d) was deleted i.e., on and from 22.9.1997.

3. In the case of *S.L. Srinivasa Jute Twine Mills (P) Ltd. v/s. Union of India & Anr.,* **(200) 2 SCC 740,** the Supreme Court has taken the view that the amendment to the Act, deleting section 16(1)(d) would apply prospectively. Therefore, the dispute in this petition is no longer *res integra*. The petitioner is not bound to contribute towards the EPF scheme upto 31.3.2000 as it would be entitled to infancy protection. In any event, the Petitioner has started paying the contributions from 8.1.1999.

4. The impugned order is therefore set aside. Petition is allowed accordingly.